UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,302	02/28/2002	Alexander Medvinsky	D02643	2065

43471   7590   01/20/2011
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ART UNIT	PAPER NUMBER
2437	

NOTIFICATION DATE	DELIVERY MODE
01/20/2011	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte ALEXANDER MEDVINSKY

_____

Appeal 2009-006307
Application 10/086,302[1]
Technology Center 2400

_____

Before JEAN R. HOMERE, DEBRA K. STEPHENS, and
JAMES R. HUGHES, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL[2]

_____

STATEMENT OF THE CASE

Appellant appeals from the Examiner's rejection of claims 1-6, 8-12, 18, 20-22, and 24-26 under authority of 35 U.S.C. § 134(a). Claims 7, 13-17, 19, and 23 have been canceled. (App. Br. 2, 14-18.) The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant's Invention

The invention at issue on appeal generally relates to a system and method for detecting duplicate client identities or clones in a communication system. (Spec. ¶ [0010].)[3]

Representative Claim

Independent claim 1 further illustrates the invention, and is reproduced below with the key disputed limitations emphasized:

> 1. A method for detecting clones (unauthorized duplicate identities) of the client, the method comprising:
>
> forwarding a first signal from a client to a KDC, the first signal for requesting access to a server;
>
> verifying that the client is authorized to access the server;
>
> transmitting an authentication token including an encrypted session key from the KDC to the client, the authentication token for providing access to the server, *wherein the authentication token is valid for a time T*;
>
> *receiving a second signal from an entity prior to expiration of the time T*, the second signal for requesting access

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[3] We refer to Appellant's Specification ("Spec."); Appeal Brief ("App. Br.") filed January 7, 2008; and Reply Brief ("Reply Br.") filed May 16, 2008. We also refer to the Examiner's Answer ("Ans.") mailed March 18, 2008.

to the server; wherein the entity has identifying information identical to the client; and

marking the entity as a possible clone or denying the second request in order to prevent access to the server.

References

The Examiner relies on the following references as evidence in support of the rejections:

Yang	US 6,069,877	May 30, 2000
Brezak	US 2002/0150253 A1	Oct. 17, 2002
		(filed Apr. 12, 2001)

Brian Tung, Clifford Neuman, Matthew Hur, Ari Medvinsky, Sasha Medvinsky, John Wray, and Jonathan Trostle, *Public Key Cryptography for Initial Authentication in Kerberos* (RFC 1510bis), at Section 2, Internet Engineering Task Force (IETF) (December 2001) ("Tung").

Rejections on Appeal

The Examiner rejects claims 1-6, 8, 11, 12, 18, 20-22, and 24-26 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yang and Brezak.

The Examiner rejects claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yang, Brezak, and Tung.

ISSUE

Based on our review of the administrative record, Appellant's contentions, and the Examiner's findings and conclusions, the pivotal issue before us is as follows:

Does the Examiner err in finding Yang and Brezak would have collectively taught or suggested that "the authentication token is valid for a time T," and "receiving a second signal from an entity prior to expiration of the time T, . . . wherein the entity has identifying information identical to the client" as recited in Appellant's claim 1?

FINDINGS OF FACT (FF)

Yang Reference

1. Yang describes, in relevant part, detecting a duplicate device identification requesting access to a mobile communication system, and denying access to the duplicate identification. (*See* Abstract; col. 2, ll. 44-50; col. 4, ll. 5-13; col. 11, l. 64 to col. 12, l. 34.) Specifically, Yang describes:

> receiving a session request from the mobile communication unit; determining the identification code of the mobile communication unit; determining if there already is a session in progress with any mobile communication unit having the same apparent identification code; and refusing registration to the mobile communication unit if there already is a session in progress with the any mobile communication unit having the same apparent identification code.

(Col. 3, ll. 59-67.)

Brezak Reference

2. Brezak, in relevant part, describes controlling client access to a network utilizing a ticket-granting ticket (TGT) (ticket or token) and session key generated by a Kerberos Key Distribution Center (KDC). (¶¶ [0004], [0053], [0055]-[0056], [0059]-[0060].) The ticket includes "start and end times for [the] ticket's validity." (¶ [0048]; *see* ¶ [0055]; Fig. 3.)

3.   Brezak also describes checking to determine if a user's ticket has been stolen (i.e., that a user's identity has been copied) (¶¶ [0059]-[0060], [0062]-[0063]): "[t]o prevent resending authenticators, KDC 306 will reject any authenticator whose timestamp is too old" (¶ [0062]); "[t]o further ensure that the user isn't presenting a stolen ticket, KDC 306 may also verify that the IP address in the TGT matches the IP address of the system that sent this ticket request message 308" (*id.*); and "[i]f everything checks out, KDC 306 will believe that this user is who they claim to be, and will send back the requested service ticket through message 310" (¶ [0063]).

ANALYSIS

Appellant argues the limitations of independent claim 1 with respect to the Examiner's § 103 rejection of claims 1-6, 8, 11, 12, 18, 20-22, and 24-26. (App. Br. 10.) Appellant does not separately argue the Examiner's rejection of claims 9 and 10 under § 103. (App. Br. 10-11.) Therefore, we select independent claim 1 as representative of Appellant's arguments and groupings with respect to the Examiner's obviousness rejections. 37 C.F.R. § 41.37(c)(1)(vii). *See In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987). We have considered only those arguments that Appellant has actually raised in the Briefs. Arguments that Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellant has the opportunity on appeal to the Board of Patent Appeals and Interferences (BPAI) to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)). The Examiner sets forth a

detailed explanation of a reasoned conclusion of obviousness in the Examiner's Answer with respect to each of Appellant's claims (Ans. 3-13), and in particular independent claim 1 (Ans. 3-4, 10-13). Therefore, we look to the Appellant's Briefs to show error in the proffered reasoned conclusions. *See Kahn*, 441 F.3d at 985-86.

Arguments Concerning the Examiner's Rejection of Representative Claim 1

The Examiner rejects Appellant's independent claim 1 as being unpatentable over the combination of Yang and Brezak. (Ans. 3-4.) Based on the record before us, we do not find error in the Examiner's obviousness rejection of Appellant's claim 1. We agree with the Examiner that the combination of Yang and Brezak would have collectively taught or suggested the disputed features of "the authentication token is valid for a time T," and "receiving a second signal from an entity prior to expiration of the time T, . . . wherein the entity has identifying information identical to the client" (App. Br. 14 (Claim App'x. 1, Claim 1)) for essentially the reasons espoused by the Examiner (Ans. 10-13).

The Examiner finds that Yang discloses, teaches, and/or suggests "receiving a session request," determining "if there is already a session in progress with any unit having the same identification code," and "refusing registration to the mobile communication unit" having the duplicate identification code. (Ans. 10; *see* Ans 3-4, 11.) Yang's disclosures support the Examiner's findings. (FF 1.) The Examiner also finds that Brezak discloses/teaches/suggests "start and end times of the ticket['s] validity" (Ans. 11), i.e., a ticket (TGT) "valid for time T" (Ans. 12). Brezak's

disclosures support the Examiner's findings. (FF 2.) The Examiner further explains a rationale for combining Yang and Brezak. (Ans. 4, 12-13.)

Appellant contends, *inter alia*, that: (1) "Yang discloses no time restriction on receiving a second signal," and "[t]he determination taught by Yang occurs at any time upon receipt of the second signal, with no reference to any time period associated with the validity or expiration of an authentication token" (App. Br. 7), and "[t]hus, Yang does not disclose Applicant's claim to receiving a request 'prior to . . . expiration of the time T'" (App. Br. 8); (2) "Yang *teaches away* from taking into account any time period associated with the validity or expiration of an authentication token," in that Yang teaches the mobile communication unit identification will only be cleared when the mobile unit requests to end the session (App. Br. 8; *see* Reply Br. 3); and (3) "Brezak expressly *teaches away* from rejecting a second signal or request that is received 'prior to expiration of time T,'" in that "Brezak teaches rejecting a second request that is received *after* the expiration of a time T, while the present invention is concerned with a second request that is received *prior to* the expiration of a time T" (App. Br. 9; *see* Reply Br. 3).

Claim 1 recites, *inter alia*, "the authentication token is valid for a time T," and "receiving a second signal from an entity prior to expiration of the time T, . . . wherein the entity has identifying information identical to the client." (App. Br. 14 (Claim App'x. 1, Claim 1).)

As detailed in the Findings of Fact section *supra*, we agree with the Examiner that Yang teaches a mobile communication device requesting access to a mobile communication system, detecting a duplicate mobile communication device identification (i.e., an identification identical to a

mobile device previously granted access, which attempts to access the
network at the same time (during an existing session)), and denying access
to the duplicate identification. (FF 1.) We also agree with the Examiner that
Brezak teaches controlling client access to a network utilizing a ticket
(token) including start and end times for the ticket's validity (a validity time
period). (FF 2.)

We find that both Yang and Brezak teach controlling access to a
network or system by a user or client – Yang teaches requesting access to a
mobile communication system by a mobile communication device (FF 1),
and Brezak teaches controlling client access to a network (FF 2). We also
find that both Yang and Brezak teach detecting unauthorized access to a
network by a duplicate user identification – Yang teaches detecting duplicate
mobile communication device identifications during an existing session (FF
1), and Brezak teaches determining if a user's ticket has been stolen (i.e.,
that a user's identity has been copied) (FF 3).

Accordingly, we find that Brezak teaches a ticket (token) valid for a
time T, and Yang teaches receiving a request to access the network by a
mobile communication device having identical identifying information (a
second signal and/or request) during an existing session, detecting
unauthorized access to the mobile communication network by a duplicate
user identification, and denying access to the second request. Thus, we find
that the combination of Yang and Brezak would have at least suggested to
one skilled in the art detecting unauthorized access to a communication
network by a duplicate user identification (a duplicate ticket/token) during
an ongoing, valid session, where the ticket remains valid for a period of time
(a validity period specified by the ticket).

We also find Brezak to be in the same field of endeavor as Yang, and conclude, as did the Examiner, that it would have been obvious to an ordinarily skilled artisan at the time of Appellant's invention to combine Yang and Brezak because combining Brezak's teaching of a ticket having a validity period with Yang's teaching of detecting unauthorized access by a duplicate user identification during an existing session is tantamount to the predictable use of prior art elements and techniques according to their established functions – an obvious improvement. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007). We also find that the Examiner articulates a rationale – protecting the system from access by unauthorized users (i.e., improved performance and/or efficiency) – for combining Yang and Brezak (*see* Ans. 4, 12-13) based on "some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at 418 (quoting *Kahn*, 441 F.3d at 988).

We further find that Appellant's disputed limitations – "the authentication token is valid for a time T," and "receiving a second signal from an entity prior to expiration of the time T, . . . wherein the entity has identifying information identical to the client" – would have read on these teachings of Yang and Brezak. Thus, we find that the combination of Yang and Brezak would have collectively taught or suggested the disputed limitation as recited in Appellant's claim 1.

Appellant's contrary arguments are unpersuasive for a number of reasons. Initially, Appellant attempts to attack the references individually, instead of addressing the combination of references. *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (noting that one cannot show nonobviousness by attacking references individually where the rejections are

based on combinations of references (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981))). We note that the Examiner cites the disclosures of Brezak for the teaching of the ticket/token having a valid time period, and the disclosures of Yang for the remaining disputed features, while Appellant attacks Yang for failing to disclose a ticket/token having a valid time period and Brezak for failing to disclose rejecting a duplicate identification during the time period. Also, Appellant's arguments are not commensurate with the scope of Appellant's claim. Appellant's claim simply recites a "token . . . valid for a time T," "receiving a second signal . . . prior to expiration of the time T," and "denying the second request." In contradistinction to Appellant's arguments, Appellant's claim does not recite any functional relationship among these limitations. Appellant argues that Yang fails to teach a determination occurring within a specific time period (App. Br. 7-8) and Brezak fails to teach rejecting a second signal prior to expiration of the time period (App. Br. 9-10); however, Appellant's claim does not recite either feature.

We also find unavailing Appellant's arguments that Yang and Brezak teach away from one another and Appellant's invention. A reference may be said to teach away from the invention if it criticizes, discredits, or otherwise discourages modifying a reference to arrive at the claimed invention. *See In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). "[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious." *KSR*, 550 U.S. at 416 (citing *United States v. Adams*, 383 U.S. 39, 51-52 (1966)). We will not, however "read into a reference a teaching away from a process where no such language exists." *DyStar Textilfarben GmbH &*

Co. Deutschland KG v. C.H. Patrick Co., 464 F.3d 1356, 1364 (Fed. Cir. 2006). Here, Appellant fails to point to any explicit language in Yang or Brezak discrediting usage of Brezak's ticket in the system of Yang. That Yang does not teach a specific validity time period – and instead teaches an existing session valid until a user sends a request to end the session (App. Br. 8) – and Brezak teaches a different method of checking to determine if a user's identity has been copied (a user's ticket has been stolen) (App. Br. 9-10) does not teach away from utilizing a ticket having a specific validity period (as taught by Brezak) in a system for determining duplicate identifications (as taught by Yang).

Thus, we find Yang and Brezak would have collectively taught or suggested Appellant's disputed claim limitations as recited in Appellant's representative claim 1. Appellant does not separately argue claims 2-6, 8-12, 18, 20-22, and 24-26 (*supra*), and these claims fall with representative claim 1. It follows that Appellant does not persuade us of error in the Examiner's obviousness rejections of claims 1-6, 8-12, 18, 20-22, and 24-26, and we affirm the Examiner's rejection of these claims.

CONCLUSION OF LAW

Appellant has not shown that the Examiner erred in rejecting claims 1-6, 8-12, 18, 20-22, and 24-26 under 35 U.S.C. § 103(a).

DECISION

We affirm the Examiner's rejection of claims 1-6, 8-12, 18, 20-22, and 24-26 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

<u>AFFIRMED</u>

msc

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